

Appl. No. 10/642,949  
Filed: August 18, 2003  
Reply to Office Action of September 21, 2005

### **REMARKS/ARGUMENTS**

#### **Summary of the Invention**

The present invention relates, generally, to mono- or multi-layer polyethylene shrink films that include in at least one layer a metallocene catalyzed polyethylene resin. Also included in the present invention are articles wrapped with such films.

#### **Status of the Claims**

Upon entry of the foregoing amendments, claims 1-5, 8-22, 24, and 26-60 will be pending in the present application. Independent claims 1 and 17 are amended herein to further clarify the invention by including a description of the machine direction plastic or thermal force and machine direction shrink stress measurements of the claimed films. Accordingly, dependent claims 6, 7, 23, and 25 have been cancelled to eliminate redundancy. Applicant respectfully submits that no new matter has been added. In the official action dated September 21, 2005, claims 1 through 60 were rejected.

Applicant thanks the Examiner for his reconsideration and withdrawal of the previous claim rejections under 35 U.S.C. §102(e).

#### **Rejections Under 35 U.S.C. §103(a)**

The pending claims have been rejected under §103(a) as allegedly being obvious in view of Whaley or Yap. In particular, the office action alleges that the

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inventions of the instant claims are obvious in view of each reference because "the polyethylene copolymer and the low density polyethylene are taught by the reference[s] to have essentially all of the physical characteristics, except for melt index ratio for the polyethylene copolymer," and "the melt index ratio, as well as the clarity values, puncture resistance, plastic force, and shrink stress, would be inherently embraced by the reference since all of the other features, including monomeric composition, are shown by the teachings therein." (Official Action at pages 4 and 6.) Applicant respectfully disagrees.

In accordance with the Examiner's suggestion at page 5 of the office action, values for the melt index ratio, clarity, puncture resistance, plastic and/or thermal force, and shrink stress of the claimed films are now incorporated into the pending independent claims. As admitted in the office action, neither Whaley nor Yap discloses or suggests polymer blends or films having the presently claimed combination of compositional and physical characteristics.

Further, the claimed physical characteristics are not inherently described by the cited references because the measured values of those characteristics are not easily predicted based simply upon the composition of a particular polymer blend. This point is illustrated by reference to the examples included in the specification of the pending application. For example, compare the film of example 7 (shown in Table 6 on page 43) with that of example 15 (shown in Table 8 on page 47). While both films comprise a blend of 75% Resin A and 25% LDPE (and otherwise have compositional characteristics falling within the claimed ranges), the physical

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characteristics of the films differ. In particular, significant differences are observed in the measurements for puncture resistance damaging energy (194 mJ/ $\mu$ m vs. 137 mJ/ $\mu$ m), machine direction plastic force (2 cN/15mm vs. 0.8 cN/15mm), and machine direction thermal force (2.92 N/15mm vs. 1.48 N/15mm)<sup>1</sup>. Such results indicate that, contrary to the assertions made in the office action, the physical properties of the films of the present invention are variable and cannot be easily predicted based upon their compositions. The films described by Whaley and Yap will therefore not necessarily have physical properties falling within the claimed ranges and cannot be said to inherently disclose the subject matter of the pending claims.

Because neither Whaley nor Yap discloses or suggests, either directly or inherently, all of the elements recited in the claims as amended herein, a *prima facie* case of obviousness has not been established. MPEP §2143.03. Therefore, Applicant respectfully requests withdrawal of the rejections under 35 USC §103(a) based on Whaley and Yap and allowance of presently pending claims 1-5, 8-22, 24, and 26-60.

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<sup>1</sup> Note that, although the films of examples 7 and 15 have different thicknesses, these measurements are all expressed as a value *per unit of thickness* so that a valid comparison may be made between the samples.

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### Conclusion

In view of the foregoing amendments and comments, Applicant believes that the claims are allowable and that the case is in condition for allowance. Applicant invites the Examiner to telephone the undersigned attorney if there are any other issues outstanding which have not been presented to the Examiner's satisfaction.

Respectfully submitted,

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